

PT 99-67

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
SPRINGFIELD, ILLINOIS**

CENTER FOR WOMEN IN TRANSITION)	A.H. Docket #	98-PT-0058
Applicant)	Docket #	97-10-223
)		98-10-031
v.)	Parcel Index #	See attachment
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. William L. Hatch, Hatch & McPheters for Center for Women in Transition.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, (hereinafter referred to as the "Department") Springfield, Illinois on February 19, 1999, to determine whether or not Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 qualified for exemption during the 1997 assessment year, and whether Champaign County Parcel Index No. 46-21-07-332-007 qualified for exemption during the 1998 assessment year.

Kathy Sims, Executive Director of the Center for Women in Transition, (hereinafter referred to as the "Applicant"), Georgia Juanita Morales, former resident of Evans House and current resident of Forbes House and Cathy Thadison, resident of Forbes House were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-

016 during the 1997-assessment year, and whether the applicant owned Champaign County Parcel Index No. 46-21-07-332-007 during the 1998-assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether the applicant used Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 for charitable purposes during the 1997-assessment year, and whether the applicant used Champaign County Parcel Index No. 46-21-07-332-007 for charitable purposes during the 1998-assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 during a portion of the 1997-assessment year. It is also determined that the applicant owned Champaign County Parcel Index No. 46-21-07-332-007 during all of the 1998-assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant used Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 for charitable purposes for the portion of the 1997-assessment year that the parcels were owned by the applicant. It is further determined that the applicant used Champaign County Parcel Index No. 46-21-07-332-007 for charitable purposes during the entire 1998-assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 did not qualify for a property tax exemption for the 1997-assessment year and that Champaign County Parcel Index No. 46-21-07-332-007 did not qualify for a property tax exemption for the 1998-assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 6. (Tr. p. 11)

2. On February 4, 1998, the Department received a property tax exemption application from the Champaign County Board of Review for Permanent Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016. The applicant had submitted the request and the board recommended granting the exemption for the period of August 18, 1997, through December 31, 1997. The Department assigned Docket No. 97-10-223 to the application.

(Dept. Grp. Ex. No. 2)

3. On August 20, 1998, the Department denied the requested exemption application finding that the property is not in exempt use and not in exempt ownership. (Dept. Ex. No. 4)

4. On August 25, 1998, the applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 5)

5. On August 5, 1998, the Department received a property tax exemption application from the Champaign County Board of Review for Permanent Parcel Index No. 46-21-07-332-007. The applicant had submitted the request and the board recommended granting the exemption for the 1998-assessment year. The Department assigned Docket No. 98-10-31 to the application. (Dept. Grp. Ex. No. 3)

6. On November 6, 1998, the Department denied the exemption application finding that the property was not in exempt use and not in exempt ownership. (Dept. Ex. No. 4)

7. On November 24, 1998, the applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 5)

8. The hearing at the Department's offices in Springfield, Illinois, on February 19, 1999, was held pursuant to those requests. (Dept. Ex. No. 6)

9. The applicant was incorporated under the Illinois General-Not-for-Profit Corporation Act on June 29, 1995. The purposes for which the applicant is organized are:

To address the problem of homelessness among women and their families in Champaign County, Illinois, by providing shelter and support services to help women and their children establish independent living situations, by offering information on and educational opportunities about homelessness among women and children to increase community awareness, and by coordinating community resources and preventative efforts to reduce the number of homelessness among women and their children.

This Corporation is organized exclusively for charitable purposes, and shall be operated exclusively for charitable purposes within [sic] the meaning of Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code. (Dept. Ex. No. 2 pp. 58-61)

10. The applicant is exempt from the payment of federal income tax pursuant to the determination that the applicant is a 501(c)(3) organization. The Internal Revenue Service issued the exemption letter on May 21, 1996. (Dept. Ex. No. 2 pp. 54-57)

11. The applicant is exempt from the payment of Illinois Retailers' Occupation Taxes and related taxes. The Department granted the exemption to the applicant on March 28, 1997, finding that the applicant is organized and operated exclusively for charitable purposes. (Dept. Ex. No. 2 p. 62)

12. The by-laws of the applicant state in the purpose clause that the applicant shall address the problem of homelessness among women and children in Champaign County and supply transitional shelter, resources, and support services to help those people establish independent living situations. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its members, directors, officers, or other private persons. (Dep. Ex. No. 2 pp. 44-51; Applicant's Ex. No. 3 p. 1)

13. On January 7, 1998, the applicant implemented and adopted a "Program Fee Policy" that states that a flat monthly fee of \$40.00 will be expected of all adult residents who have secured income¹. The rent is due on the 5th of each month. (Dept. Ex. No. 2 pp. 19, 28; Dept. Ex. No. 3 p. 12; Applicant's Ex. No. 12)

14. The applicant acquired Champaign County Parcel Index Nos. 46-21-07-332-007, 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 by a Warranty Deed dated August 18, 1997. The parcels are commonly known as 506-508½ East Church Street, Champaign, Illinois. (Dept. Ex. No. 2 pp. 7-9; Dept. Ex. No. 3 pp. 8-10)

¹ Specifically, the Program Fee Policy states:

"Budget cuts in the summer of 1996 in excess of \$30,000 impacted the Center to such a degree that we must now implement a program fee policy and ask residents who have the means to pay a minimal program fee. We strongly believe that this investment on the part of residents will also encourage a stronger sense of "ownership" and responsibility towards the Center's programs and buildings.

The following shall guide the implementation of the program fees:

1. **A flat monthly charge of \$40 will be expected of all residents who have secured income.** This fee will be asked only of adults and not children. If the \$40 payment exceeds 30% of the resident's income, program fee will be adjusted so that no more than 30% of their income will be requested.
2. Residents who have not secured an income will have 30 days in which to do so. If income is not secured at the end of 30 days, an evaluation will be conducted by staff to determine if serious efforts had been made to secure income. (Evaluations will be based on number of job interviews, appointments kept for job referrals or public assistance benefits and all paperwork successfully completed.)
3. **AT NO TIME WILL A RESIDENT BE ASKED TO LEAVE BECAUSE OF THEIR INABILITY TO MAKE PAYMENT IF ITS DUE TO NO FAULT OF THEIR OWN OR IF THEIR PRIMARY GOAL IS TO PURSUE FULLTIME EDUCATIONAL OR COUNSELING SERVICES, JOB TRAINING OR OTHER SUCH ACTIVITY AS AGREED UPON IN CONSULTATION WITH THEIR ADVOCATE . . .**
7. Once income has been secured, the resident is responsible for backpayment for the time spent at the Center. Again, this will be prorated dependent upon entrance date. . .
12. Emergency admits are exempt from any payments."

15. A 3,000 square foot, two-story building with a basement sits on Permanent Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016. The lots are located at 508 and 508½ East Church Street and the building on the two lots is known as the Clara Forbes House (hereinafter referred to as the "Forbes House"). The purpose of the Forbes House is to provide emergency shelter and transitional housing. The building is operated 24 hours a day, 7 days a week, 365 days a year. (Dept. Ex. No. 2 pp. 1-6, 10-18, 66; Applicant's Ex. No. 8)

16. Forbes House is a four-bedroom house with the capacity for 16 women and children. The arrangements are for a congregate living situation in which residents share bedrooms or a single family may share a bedroom together. All residents have access to the living room, serving kitchen, and a handicap accessible bathroom on the first floor. An office and a six-bed bedroom are also located on the first floor. On the second floor are two staff offices, three bedrooms, and an open playroom area for children. The basement has a computer room, a lounge/library area, and an exercise room available for the use of the residents. (Dept. Ex. No. 2 p. 66)

17. The Forbes House is the applicant's second structure. The house was moved to its current location in 1994. (Dept. Ex. No. 2 pp. 10-12; Tr. p. 16)

18. A 3,121 square foot, three-story house with a basement is on Permanent Parcel Index No. 46-21-07-332-007. The lot is located at 506 East Church Street and the structure on the parcel is known as the Deloris Evans House (hereinafter referred to as the "Evans House"). The capacity of Evans House is 16 women and children and 5-6 staff. (Dept. Ex. No. 3 pp. 1-3)

19. The Evans House contains five shared bedrooms. Located on the first floor are the common areas including a living room, dining room, a large play-area for children, a fully equipped commercial kitchen, a staff office, and a handicap accessible bedroom and bathroom. On the second floor are four additional bedrooms and another bathroom. On the third floor are two staff offices and closets. The basement contains a food pantry, laundry room, and storage. (Dept. Ex. No. 3 pp. 3-5)

20. The Evans house is applicant's original permanent structure. (Tr. p. 16)

21. In 1997, the applicant had requests for shelter from 688 women and 676 children. Two hundred fifty women and children resided at applicant's shelters during that year. (Dept. Ex. No. 2 pp. 52-53)

22. Applicant's financial statements for the period of July 1, 1997, through June 30, 1998, show grant income of \$184,899.00.² The applicant also received contributions of \$145,104.00³. Applicant's expenses during that time period were for Program Services and Supporting Services. Sixty-percent of applicant's income comes from grants; 39% is from community and private donations; and 1% comes from rent payments. The applicant is a United Way agency and 10% of the private donations come from United Way funds. (Applicant's Ex. Nos. 1, 2, 4, 5, 15 & 16; Tr. pp. 20-21)

23. The applicant has no stockholders and does not pay dividends. (Tr. p. 21)

24. For administration and staff support, the applicant's eight to ten-member uncompensated board of directors oversees the administration and policy planning decisions of the agency. (Applicant's Ex. No. 6; Tr. p. 22)

25. The applicant has approximately 18-19 staff. The applicant employs a full time executive director, a part-time accountant, a part-time volunteer coordinator, a part-time maintenance coordinator, a part-time kitchen manager/nutrition educator, and a house staff coordinator. Regarding program staff and services, the applicant provides an outreach/intake worker, a client advocacy/case-manager, a family advocate, an aftercare/ transitional program coordinator, house supervisors, a computer center, payee representation, and support groups for the residents. (Applicant's Ex. No. 6; Tr. pp. 22-23)

26. The operating and staffing costs are split down the middle in terms of allocation. All costs are shared equally between the two houses. The programs conducted by the applicant are the same at each facility. (Tr. pp. 15-17)

27. The recipients of applicant's services are homeless women and children. A

² The grants are from Housing and Urban Development-\$109, 937.00; Department of Commerce and Community Affairs-\$39,978.00; and Illinois Department of Public Aid-\$34, 984.00.

³ The contributions were from United Way- \$22,643.00; the City of Urbana-\$10,000; and other contributions-\$112,461.00. The category of other contributions includes donations from churches, individuals, business groups, and civic groups.

woman must be 18 years old and must be able and willing to follow the applicant's rules. No male child over the age of 13 is allowed to reside in the houses due to the group living situation. No drugs or alcohol are allowed on the premises. Neither intoxication nor violent and disruptive behavior are allowed. (Tr. pp. 18, 31)

28. The applicant's residents learn of the applicant's services by word of mouth, other agency referrals, police, and hospitals. The average stay is approximately four to six months. The applicant offers stays of up to two years. (Tr. pp. 27, 29-31)

29. The applicant gets as many as 50 requests per month for their services. The Outreach Director is responsible for the screening and assessment of each individual request. The applicant meets with the individuals to determine who is most at risk, who is most in need, and who might have other options. (Tr. p. 28)

30. Each resident is assigned to an advocate. The advocate is a counselor and jack of all trades. The advocate checks on the resident's progress, helps the resident to contact various programs that encourage independence and survival, and acts as a surrogate mother/sister. (Tr. pp. 37-39)

31. Each resident is expected to keep her living space clean. Chores are assigned on a daily basis. Each resident is also assigned a weekly chore that must be completed during that week. Groceries are provided. The residents are expected to make their own breakfast and lunch. The cook fixes the evening meal with the help of a resident from each house. Each resident takes a turn at doing different chores. Chores consist of things like cleaning the bathrooms, kitchen, dusting the dining room, living room and hall, polishing, mopping, and sweeping. (Tr. pp. 42-45)

32. Regarding the \$40.00 per month rent charge, \$40.00 is the maximum amount the applicant charges. If a resident were earning less than \$120.00 per month, the applicant would charge 1/3 of the resident's income. If a resident did not have any funds, they would still be admitted to the center and allowed to live there rent-free. (Tr. pp. 19, 32-36, 40-42)

33. Approximately 50% of the recipients of applicant's services in 1998 were non-paying residents. (Tr. p. 20)

34. On August 31, 1998, the applicant and the Junior League of Champaign-Urbana executed an agreement to create a safe playground at the applicant's residence located at 508 East Church Street, the Forbes House. The Junior League agreed to provide \$15,000.00 for the project. The project consisted of fencing the recreational area and installing playground equipment for the use of the children who reside in the applicant's homes. (Applicant's ex. No. 17)

35. I take administrative notice of the decision of the Department dated January 12, 1990, pursuant to Docket No. 89-10-60 in which Champaign County Parcel Index No. 46-21-07-332-007 was granted an exemption from property taxation. At that time, Christian Social Action Forum, Inc. owned the parcel. (Dept. Ex. No. 3 p. 6)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 **ILCS** 200/15-65, which exempts

certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .

Here, the appropriate exemption applies to "institutions of public charity." Our courts have long refused to apply this exemption absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter referred to as "Methodist Old Peoples Home.") They have also ascribed to the following definition of "charity[.]" originally articulated in Crerar v. Williams, 145 Ill. 625, 643 (1893):

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

The Illinois Supreme Court has effectuated this definition by observing that all "institutions of public charity" share the following "distinctive characteristics[:]"

The organization:

1. must benefit an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare-or in some way reduce the burdens of government;
2. must have no capital, capital stock, or shareholders and earn no profits or dividends;
3. must derive its funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
4. must dispense charity to all that need and apply for it, and must not

provide gain or profit in a private sense to any person connected with it; and,

- 5 must not place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed; and
- 6 the term “exclusively used” means the primary purpose for which the property is used and not any secondary or incidental purpose. Methodist Old Peoples Home, at 157

Two things are necessary for an exemption of property under the charitable exemption. First the property must be owned by a charitable organization and secondly, the property must be used for charitable purposes. Rogers Park Post No. 108, American Legion v. Brenza, 8 Ill.2d 286 (1956). Although the criteria cited in Methodist Old Peoples Home are not an exclusive rigid formula, they are guidelines that help to analyze whether an applicant is a charitable organization. Du Page Co. Bd. of Rev. v. Joint Comm'n, 274 Ill.App.3d 461 (2nd Dist. 1995) (*leave to appeal denied*, 164 Ill.2d 561)

Because the applicant is organized under the Illinois Not-for-Profit Corporation Act, I find that the applicant has no stock or shareholders, does not profit from the venture, and does not provide gain or profit in a private sense to any person or person connected with the applicant's venture.

Because almost all of the applicant's funds come from grants and charitable contributions, I find that the applicant derives its income from public and private charities and holds those funds in trust for the purposes expressed in its charter.

As long as space is available, and a homeless person meets the general criteria for residency, the applicant allows anyone who applies to reside in the two houses on the subject parcels. The applicant charges a maximum of \$40.00 a month for rent if the resident has secured income. The applicant waives fees if the person is unable to pay, and does not charge children for rent. The only limitation on the use of the residence is as space permits. The Illinois courts have held that charging fees to a person who has the ability to pay will not destroy a charitable exemption. Small v. Pangle, 60 Ill.2d 510 (1975). I therefore find that the applicant benefits an

indefinite number of persons and reduces the burdens of government.

I also find that the applicant dispenses charity to all that need and apply for it, and does not place obstacles of any character in the way of those that need and would avail themselves of charitable benefits dispensed by the applicant. I therefore find that the applicant is a charitable organization.

I further find that the charitable use of the Forbes and Evans Houses for shelter and transitional housing for homeless women and children is the primary purpose for which the properties are used.

It is therefore recommended that Champaign County Parcel Index Nos. 46-21-07-332-012, 46-21-07-332-013, and 46-21-07-332-016 be exempted from property taxation for the period of August 18, 1997, through December 31, 1997, or for 37% of the 1997-assessment year. That is the portion of the 1997-assessment year that the applicant owned the three parcels. I further recommend that Champaign County Parcel Index Nos. 46-21-07-332-007 be exempt from Real Estate Taxation for the entire 1998-assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
November 15, 1999